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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**OBPT 3-2022**

CHAPTER 848

OREGON BOARD OF PHYSICAL THERAPY

**FILED**

10/20/2022 10:06 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopting new rule relating to use of health care interpreters to implement HB2359(2021).

EFFECTIVE DATE: 10/20/2022 THROUGH 04/17/2023

AGENCY APPROVED DATE: 10/14/2022

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NEED FOR THE RULE(S):

HB2359(2021) established new requirements for the use of health care interpreters and directed health care regulatory boards to establish by rule specific requirements and exemptions.

JUSTIFICATION OF TEMPORARY FILING:

During preliminary public discussions regarding the development of rules to implement the bill, stakeholders identified concerns regarding the ambiguity around applicability of the requirement in educational settings. After working with the Oregon Health Authority, DOJ and other stakeholders to determine legislative intent, the following rules were developed to address the ambiguity and establish requirements for licensees pursuant to the new statutory requirements. Since the statutory requirements are currently in effect since July 2022, the temporary rule is required to address the clarification as soon as possible. The Board will also initiate the administrative rulemaking process to address permanent rule adoption.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Legislative documents, board meeting materials and minutes; available at the Board office.

ADOPT: 848-040-0107

RULE SUMMARY: Establishing requirements for use of health care interpreters to implement HB2359(2021).

CHANGES TO RULE:

848-040-0107

Standards for Use of Health Care Interpreters

(1) Except as provided in subsection (a) of this section, a licensee who is reimbursed with public funds shall work with a health care interpreter from the health care interpreter registry administered by the Oregon Health Authority under ORS 413.558 when communicating with a patient who prefers to communicate in a language other than English, unless the licensee is proficient in the patient's preferred language.¶

(a) A licensee who is otherwise required to work with a health care interpreter from the health care interpreter registry may work with a health care interpreter who is not listed on the health care interpreter registry only if the

provider.¶

(A) Is employed by an education provider that provides education services to children from birth through age 21 and the interpreter is provided by the education provider in accordance with the education provider's requirements.¶

(B) Verifies, in writing, that the licensee has taken the appropriate steps needed to obtain a health care interpreter from the health care interpreter registry in accordance with the rules adopted by the Oregon Health Authority under ORS 413.558; or¶

(C) Has offered the patient the services of a health care interpreter from the health care interpreter registry and the patient declined the offer and chose a different interpreter.¶

(b) A licensee shall give personal protective equipment, consistent with established national standards, to health care interpreters providing services on-site at no cost to the health care interpreter and may not suggest to the health care interpreter that the health care interpreter should procure the health care interpreter's own personal protective equipment as a condition of working with the licensee.¶

(c) A licensee shall maintain records of each patient encounter in which the provider worked with a health care interpreter from the health care interpreter registry. The records must include:¶

(A) The name of the licensee;¶

(B) The health care interpreter's registry number; and¶

(C) The language interpreted.¶

(2) For the purposes of this rule, education provider is defined as:¶

(a) A school district, as defined in ORS 332.002.¶

(b) The Oregon School for the Deaf.¶

(c) An educational program under the Youth Corrections Education Program.¶

(d) A public charter school, as defined in ORS 338.005.¶

(e) An education service district, as defined in ORS 334.003.¶

(f) Any state-operated program that provides educational services to students.¶

(g) A private school.

Statutory/Other Authority: ORS 413.558, HB 2359 (2021), ORS 688.160

Statutes/Other Implemented: ORS 413.558, HB 2359 (2021)